

**DEC 12 2005**

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**U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

ADRIAN MARTINEZ-DURAN,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 04-72730

Agency No. A79-611-512

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted December 5, 2005<sup>\*\*</sup>

Before: GOODWIN, W. FLETCHER, and FISHER, Circuit Judges.

Adrian Martinez-Duran, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeal's summary affirmance without opinion of an immigration judge's denial of his application for cancellation of removal. Our

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

jurisdiction is governed by 8 U.S.C § 1252. We dismiss in part and deny in part the petition for review.

To the extent Martinez-Duran challenges the IJ's determination that he failed to demonstrate the requisite "exceptional and extremely unusual hardship" for cancellation of removal, we lack jurisdiction to review that contention. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926, 929-30 (9th Cir. 2005).

Although we have jurisdiction to consider Martinez-Duran's contention that the his removal is unconstitutional because it will result in the forced removal of his United States citizen daughter, this contention lacks merit because Martinez-Duran testified that his daughter would not accompany him to Mexico if he were ordered removed.

Martinez-Duran's contention that the IJ deprived him of due process by refusing to let him fully present his case is without merit. *Cf. Colmenar v. INS*, 210 F.3d 967, 971 (9th Cir. 2000).

**PETITION FOR REVIEW DISMISSED in part and DENIED in part.**